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November 2, 2023

VIA ECF AND E-MAIL

The Honorable Katherine Polk Failla
United States District Court
Southern District of New York
40 Foley Square, Room 2103
New York, New York 10007

Re: *Johnson v. Clearview AI, Inc., et al.*, Civil Action No. 1:23-cv-02441-KPF

Dear Judge Failla:

As you know, we represent Plaintiff Charles Johnson (“Plaintiff”) in the above referenced matter. We write in response to Defendants Clearview AI, Inc. (“Clearview”), Hoan Ton-That, and Richard Schwartz’s (collectively, “Defendants”) letter, dated November 1, 2023, regarding several tweets that Plaintiff recently posted about Mr. Ton-That.

As an initial matter, this firm has not advised nor participated in the public statements made by Plaintiff about this litigation or any of the Defendants. In fact, we were made aware of these tweets just minutes before Defendants’ counsel filed their letter to the Court yesterday. The tweets furnished by Defendant’s counsel are at best tangentially about *Johnson v. Clearview AI, Inc. et al.*, Civil Action No. 1:23-cv-02441-KPF and do not mention Defendants’ counsel or involve a communication to any investor in or member of the board of Clearview, which we represented Plaintiff would not do in our letter of July 13, 2023.

Defendants’ counsel chose, however, to characterize the tweets in a defamatory light as anti-Semitic. Despite this, after receiving Defendants’ letter, we contacted Plaintiff to reiterate that public statements made about the litigation, the Defendants, or any parties involved in the litigation may not be productive.

Plaintiff subsequently, on his own initiative and without advice or counsel from us, published on his substack a defense against the charge of anti-Semitism and specifically directed that defense at Defendants’ counsel. We again contacted Plaintiff and advised that such conduct may not be productive, and runs counter to the representations we made to the Court in our letter

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Page 2

of July 13, 2023. We have reiterated to Plaintiff that while he has his rights of free speech, he should abide by principles set forth in that letter. We do hope that Defendants' counsel will similarly refrain from characterizing Plaintiff as an anti-Semite as such conduct is not productive.

We appreciate the Court's attention to this matter.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'S. Penaro', with a long horizontal flourish extending to the right.

Steven L. Penaro

cc: Counsel of Record (via ECF)